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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

IN RE: CASE NO. 14-51643-BTB
JOHN DAVIS TRUCKING COMPANY, CHAPTER 11
INC.,

Debtor in Possession.

**DEBTOR'S REPLIES TO
OPPOSITIONS FILED BY
CREDITORS' COMMITTEE AND
AMTRAK TO MOTION FOR ORDER
AUTHORIZING SECOND SALE OF
PERSONAL PROPERTY AND
EMPLOYING RITCHIE BROS.;
PAYMENT OF COMMISSION**

**Hearing Date: May 29, 2015
Hearing Time: 10:00 a.m.**

John Davis Trucking Company, Inc. (JDT") replies to the Oppositions filed by the Creditors' Committee and Amtrak, **DE 137** and **DE 138** to its Motion For Order Authorizing Second Sale Of Personal Property and Employing Ritchie Bros. Auctioneers and Payment of Commission ("Sale Motion"). **DE 116.** The is Reply is supported by the separately filed Declaration of Jeffrey Hartman.

LIMITED COMMITTEE OPPOSITION

The Debtor intends to segregate the net sale proceeds of the second auction with the proceeds from the sale of the first auction. JDT also takes this opportunity to clarify the record as set forth in the Hartman Declaration. The first auction was held on March 17, 2015. On April 13, 2015, attorney Hartman received a printout from Ritchie Bros. showing the results of the auction. That printout indicated proceeds of \$533,500 "total for this Owner". That same date, Hartman sent an e-mail to Ritchie Bros. inquiring whether this was the "net to John Davis Trucking?". Ritchie Bros. responded by e-mail that "yes" that was

1 the net. On April 14, 2015 Hartman filed a Notice Of Auction Results attached to which
 2 was the printout received from Ritchie Bros. on April 13, 2015. **DE 103.** Subsequently,
 3 Hartman received an Auction Settlement Statement from Ritchie Bros. showing the
 4 Disbursement to JDT totaling \$480,581.75. This record showed gross sale proceeds of
 5 \$533,500 less the 9.5% commission of \$50,682.50 to Ritchie Bros. The funds were wired
 6 into the JDT operating account on April 21, 2015. The deposit is shown on the April 2015
 7 monthly operating report. **DE 139.** Hartman Declaration.

8 The separate Wells Fargo account was opened May 11, 2015 and the sale proceeds
 9 were deposited. These funds are held by JDT in a segregated account at Wells Fargo Bank,
 10 account # 4092. As to the remainder of the Creditors' Committee objection, JDT has not yet
 11 made a final determination about whether it will continue to operate or propose an orderly
 12 liquidation of assets under the supervision of the Court. If JDT can operate profitably and it
 13 makes sense to do so, it may proceed in that manner.

14 15 **AMTRAK OPPOSITION**

16 Much of Amtrak's Opposition does not directly address the Sale Motion which
 17 contemplates a sale of 7 pieces of equipment. There are three trucks, including one dump
 18 truck and one lube/oil truck, to be sold and four trailers. At the Petition Date, Schedule B-29
 19 identified approximately 183 items of equipment owned by JDT. In the first auction, 12
 20 pieces of equipment were sold. In the second auction, 7 pieces are to be sold. These are
 21 items of equipment JDT has determined are not necessary to continued operations and they
 22 do not increase in value with the passage of time.

23 It is simply wrong for Amtrak to assert that JDT has not been forthcoming with
 24 information. JDT has timely filed each of its monthly operating reports showing the result
 25 of operations. On February 11, 2015, pursuant to a subpoena, JDT produced 4,675 pages of
 26 documents to the Committee. Within the past week, the Committee has supplemented its
 27 request for additional documentation which will be responded to in due course.

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CONCLUSION

For the foregoing reasons, JDT requests the Court overrule the Oppositions and grant the Sale Motion.

Dated: May 21, 2015.

HARTMAN & HARTMAN

/S/ Jeffrey L. Hartman
Jeffrey L. Hartman, Esq.
Attorney for Debtor in Possession